

REMARKS

Reconsideration of this Application as amended is respectfully requested. This AMENDMENT AND REPLY is filed in response to the Office Action mailed September 21, 2007 (the "present Office Action"). Claims 1 to 5, 15 to 20, 22 to 26, and 28 to 37 are presently pending in the application with currently amended Claims 1, 15, and 32 being independent.

Based on these Remarks, Applicant respectfully requests that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn. It is submitted that all pending claims are now in a condition for allowance.

Claim Objections Based on Informalities

Applicant has amended Claims 2, 3, and 15 to correct spelling errors specified in the present Office Action, thereby rendering moot the subject objections thereto based upon informalities. Applicant has also amended independent Claims 1 and 32 to eliminate the term "including" and to positively recite that the gripping member is substantially semi-circular.

No issue of new matter is presented with respect to Claim 15 and the dependent claims thereof as support for the amendments may be found at paragraph 89 to 94 of the specification and Figures 23 to 30 of the drawings. The amendments to the remaining Claims are inherent in the context thereof.

Claim Rejections Under 35 U.S. C. § 103

I. Hicks as modified in view of Murayama

Claims 1, 3, 5, 26, 29, 31, 32, 34, 36 and 37.

The present Office Action has rejected Claims 1, 3, 5, 26, 29, 31, 32, 34, 36 and 37 under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 5,839,627 to Hicks et al. ("Hicks") in view of the cited reference of U.S. Patent No. 4,756,443 to Murayama.

The present Office Action acknowledged that the Hicks fitment "does not expressly disclose the gripping member including a semi-circular member having first and second ends

with the second end unconnected to the frangible membrane, which inherently includes a semi-circular member being helical and extending 180° or 270°” as called for in Applicant's currently amended independent Claims 1 and 32. Yet, Hicks is cited for its column 5 lines 4-6 statement that a gripping member can have other desired shapes including a "tab or handle or any other protrusion suitable for grasping".

The cited reference of Murayama is applied for a teaching that "it is known to provide a gripping member including a portion formed as a ring (49) or a semi-circular (35) tab member". The present rejection states that that it would have been obvious to one of ordinary skill in the art to form the Hicks gripping member in a semi-circular (Claim 1, 32) or helically (Claim 34) shape having first and second ends with the second end unconnected to the frangible membrane as taught by Murayama because a mere change in the shape of a component. is generally recognized as being within the level of ordinary skill in the art. as it provides a gripping member of known alternative configuration. With respect to Claims 5, 31, 32, and 36 the present rejection states it is obvious for the change in shape to be optimized to provide the semicircular member with an extension of approximately 180° and 270° respectively since the gripping member is then of sufficient length for gripping without the necessity of forming a ring.

In commenting upon Applicant's prior remarks, the present Office Action states in part that:

"Applicant argues that the pull tab 35 of Murayama is not semi-circular, but rather is L-shaped. Thus, not meeting the claim limitation. It is noted, however, that the claim does not set forth that the gripping member of claims 1 and [32] are semi-circular. The claim limitation reads "said gripping member *including* a semicircular member". The term "including" is in no way limiting the structure of the gripping member to be semi-circular." (Office Action page 8)

Applicant's current amendment to independent Claims 1 and 32 has eliminated their prior reference to the term "including" and now positively recites that its gripping member is semicircular.

The present Office Action also states in part that:

"In this case, if it has been well established that gripping members can have any of the number of configurations as evidenced by Hicks, Saunders and O'Neal. It also has been well established that changing the shape of an element is within the level of ordinary skill in the art. {citation omitted} These two facts alone are sufficient to modify the gripping member and change the shape of the gripping member of Hicks to include a semicircular member alone." (Office Action page 8-9).

Applicant respectfully traverses the foregoing rejections of claims under 35 U.S.C., § 103(a) as the same may be attempted to be applied to Applicant's independent Claims 1 and 32 and the several pending claims directly or indirectly depend thereon.

No Recreation of Applicant's Independent Claims 1 and 32 As Currently Amended.

Applicant respectfully submits that the Hicks in view of Murayama combination does not reconstruct Applicant's inventions of currently amended independent Claims 1 and 32. It is noted that both independent Claims 1 and 32 in part define a fitment comprising a gripping member adapted to facilitate removal of the frangible membrane from the spout, **the gripping member being semicircular and having first and second terminal ends, the first end being connected to the frangible membrane adjacent the line of weakness and the second end being remotely located from the first end and unconnected to the frangible membrane**, wherein the frangible membrane and the gripping member are monolithically formed **and the gripping member is either recessed within the spout (claim 1) or extends at least approximately 180° (claim 32).**

Applicant respectfully submits that the Hicks in view of Murayama combination does not reconstruct at least the bold print portions of the independent claims set forth above. There are several features of Applicant's currently amended independent Claims 1 and 32 that are not found in Hicks which, in the subject attempted §103 combination, are not supplied by Murayama.

The first of such features is that the Hicks patent fails to disclose that its pull device may be **semicircular**. The Examiner acknowledges the same yet notes the Hicks patent discloses at column 5 lines 4-6 that its **pull device 30** "may be a ring or tab or handle or any other protrusion suitable for grasping by the user".

Hicks discloses a tab 30 attached to a top surface 28 of an inner membrane seal 20. Tab 30 is depicted as having a closed ring-shape in all the figures. The closed ring shape disclosed by Hicks is distinct from a semicircular shape both in appearance and in function, both when resting and when being pulled by a user. Indeed, Hicks teaches at Column 5, lines 25-31, that the inner membrane seal 20 "may be removed from the inside of the spout by **either pulling the tab 30 upwardly or pushing it downwardly** (in a direction opposite to arrow 21) to produce an aperture which was previously occupied by the inner membrane seal 20" {bold print emphasis added}. To operate downwardly the pull tab 30 of Hicks is as depicted, namely of **a closed configuration**. Hicks fails to disclose a semicircular configuration.

Second, the Hicks pull device does not teach or suggest the claim limitation of **a semicircular gripping member "having first and second terminal ends"** as in the fitment of the present invention called for by claims 1 and 32.

Third, the Hicks pull device does not teach or suggest the claim limitation of **"the first end being connected to the frangible membrane adjacent the line of weakness and the second end being remotely located from the first end and unconnected to the frangible membrane"**.

It is respectfully submitted that the foregoing aspects of currently amended independent Claims 1 and 32 not taught by Hicks are not supplied by Murayama via a gripping member as a ring (49) or a tab member (35). Modifying Hicks in view of Murayama as applied does not convert the Hick's pull tab 30 to be semicircular with first and second terminal ends wherein the

first end is connected to the frangible membrane adjacent the line of weakness and the second end is remotely located from the first end and unconnected to the frangible membrane.

Murayama is directed to a pressure-packing container comprising an impervious container body having an internally recessed upper edge, and an easy-to-open closure cap composed of a rigid outer closure member having an annular rim, a resilient inner closure member joined with the underside of the outer closure member, and a sheet of impervious film bonded with the inner closure member. To close the container, an inner peripheral wall of the rim is plastically deformed to force a portion of the inner closure member to flex into a groove in the upper edge, with an outer edge of the impervious film sheet sandwiched between the deformed inner closure member and the grooved upper edge, thereby providing a hermetic seal strong enough to withstand the inside pressure of the container.

Murayama discloses two types of gripping members: a pull tab 35 or a pull tab ring 49.

Addressing the former first, Murayama teaches:

"As shown in FIG. 1, the closure cap 11 further includes **a pull tab 35** disposed on an outer obverse side of the outer closure member 21 for detaching the closure cap 11 from the container body 10. **The pull tab 35 is integrally connected with an annular strips 36 disposed in the recessed intermediate portion 25 of the outer closure member 21. The annular strip 36 in turn is integrally connected with the resilient inner closure member 22 by means of a plurality of connectors 37** (FIG. 4) extending through the respective apertures 28 and the through-hole 27. The connector 37a extending through the through-hole 27 is thicker than the other connectors 37 and hence is stronger than the latter. **The pull tab 35, the strip 36 and the connectors 37, 37a are composed of the same material as the inner closure member 22** and they are formed simultaneously with the formation of the molded inner closure member 22."... {Column 4, lines 33-49, bold print emphasis added}

"To open the container of FIG. 5, **the pull tab 35 is gripped by the user's fingers and pulled upwardly away from the closure cap 11 to thereby forcibly separate the strip 36 from the successive connectors 37. Since the last connector 37a is thicker than the remainder 37 and hence withstands the pulling force, the pull tab 35 is still in integral connection with the inner closure member 22. As the pull tab 35 is further pulled, the outer closure member 21 is separated from the inner closure member 22, followed by detachment of the inner closure member 22 from the upper edge 15 of the container body 10. In this instance, the closure cap 11 is snapped out from the**

container body 10 under the force of the pressurized gas in the container. The upper edge 15 of the container body 10 is free from damage and hence is reusable after cleaning. {Column 5, lines 43-58, bold print emphasis added}

The Murayama pull tab 35 **thus encompasses a portion which connects with the annular strip 36 – a portion which is inconsistent with the total pull tab 35 being "semicircular"**. Specifically, **FIG. 1. illustrates the pull tab 35 as having a generally linear proximal portion connected to the annular strip 36 and an abbreviated flared free end apparently having a mildly acuate contour. As an integral whole, the pull tab 35 distinctly is not "semicircular"**. Moreover, the gripping surface to be gripped by a user's fingers is expressly stated to be "the pull tab 35" **inclusive of its generally linear proximal portion connected to the annular strip 36.**

Finally, even the distal end portion of the pull tab 35 does not form a semicircular member. **The distal end portion is an abbreviated flared free end of the pull tab 35, not a semicircular member. The mildly acuate contour depicted does not have sufficient arc.**

The present Office Action commented upon on Applicant's prior claim language incorporating the term "including" in association with the gripping member as not positively reciting the gripping member to be semi-circular. With the present amendments, modifying Hicks to substitute therein the pull tab 35 of Murayama does not result in a structure as now positively defined by currently amended independent Claims 1 and 32. Respectfully, the pull tab 35 of Murayama is not semi-circular. It is more of a L-shaped leg having a downwardly flared "foot" portion of the leg.

Modifying the gripping member of Hicks with the pull tab ring 49 of Murayama meets with the same infirmity of the Murayama pull tab 35, namely it does not reconstruct Applicant's currently amended independent Claims 1 and 32.

With respect to the Murayama ring (49), FIG. 6 of Murayama is a plan view of a modified closure cap 41. At Column 6 lines 13-31 Murayama teaches:

"The closure cap 41 of the foregoing construction is attached to the upper edge 15 of the container body 10 in the same manner as the closure cap 11 of FIG. 1 has done, therefore, a description is not necessary. **When the closure cap 41 is to be detached from the container body 10, the flap 46 is lifted up to move a portion of the rim 44 upwardly away from the corresponding slit grip portion 44 of the inner closure member 42. As the flap 46 is further lifted, the inner closure member 42 and the impervious film sheet 48 are brought out of sealing engagement with the grooved upper edge 15 of the container body 10. In this instance, a pressurized gas leaks from the container through the slits 47. A further upward movement of the flap 46 necessarily causes detachment of the closure cap 41 from the container body 10. Alternately, it is possible to open the container by pulling a pull tab 49 on the closure cap 41, in advance to the lifting of the flap 46.**" {bold print emphasis added}

Thus, usage of the pull tab 49 is an alternate means to open the container than that of flap 46. Employment of this alternative means still entails pulling the pull-tab 49 in like manner as in the pull tab 35 to accomplish the alternate opening with like structure as in the earlier closure cap 11. The Murayama pull tab 49 is a ring that **also encompasses a portion which connects with the annular strip 36 – a portion which is inconsistent with the total pull tab 49 being "semicircular". FIG. 6. illustrates the pull tab 49 as having a generally linear proximal portion connected to the annular strip 36. As an integral whole, the pull tab 49 is distinctly not "semicircular".**

Likewise the distal ring portion of Murayama's pull tab 49 applied for incorporation into the Hicks tab 30 would require modification be configured as a semicircular member as disclosed in currently independent Claims 1 and 32. A ring shape forms a continuous form with no ends. In contrast, the semicircular member disclosed in independent claims 1 and 32 has *first and second terminal ends* wherein the first end is connected to the frangible membrane adjacent the line of weakness and the second end is remotely located from the first end and unconnected to the frangible membrane.

As outlined in MPEP 2141, the Patent Office has reiterated the Supreme Court's decision in *KSR* by outlining the framework for the objective analysis for determining obviousness under 35 U.S.C. § 103 as restating the three Graham factors:

- (a) ascertaining the scope and content of the prior art;
- (b) ascertaining the differences between the claimed invention and the prior art; and
- (c) resolving the level of ordinary skill in the pertinent art.

Therefore, Hicks in view of Murayama does not meet the basic requirements of a Prima Facie case of obviousness, nor does the combination support a conclusion of obviousness consistent with the proper functional approach to the determination of obviousness as laid down in Graham. Since *the references fail to teach each and every element of the claimed invention*, the improper combination of references cannot meet any of the rationales laid down in *KSR* and as listed under MPEP 2143.

Reconstruction of Applicant's currently amended independent Claim 1 and 32 inventions does not occur with construing the combination of Hicks and Murayama under a general theory of a mere change of shape being a design choice having a reasonable expectation of predictable results. First, the combination of Hicks and Murayama, regardless of any speculative design choice, still does not alleviate the infirmity that the references as combined do not meet Applicant's claim limitations as amended. Further the references when combined do not produce a "known alternative shape" or an alternative shape that is "structurally equivalent". Also, the alternate shapes referenced in the present Office Action, such as the tab opener 12, 30 of the Saunders reference and the ring tabs 26, 77 or pull 110 of the O'Neal reference, do not reconstruct Applicant's currently amended independent Claims 1 and 32.

References Are Not Properly Combinable

Additionally, there is no motivation to modify the closed ring-shaped tab 30 of Hicks to use a semicircular gripping member. The tab 30 as disclosed by Hicks is **pulled upwardly or**

push downwardly by a user with a single finger. In contrast, a gripping member having first and second terminal ends, as disclosed in claim 1, requires pulling up the gripping member with a finger and then grasping the member between at least two fingers. Hicks fails to include any motivation for configuring tab 30 in such a semicircular shape as disclosed in independent Claims 1 and 32.

Likewise one skilled in the art would not modify Hicks by Murayama as applied in the present Office Action. Murayama's **linear proximal portion of the pull tab 35 or 49 must be connected with the annular strip 36, and hence the plurality of successive connectors 37 and the resilient inner closure member 22, to open the closure cap.** A modification selectively disregarding the linear proximal portion of the Murayama pull tabs 35 or 49 destroys the cap's operability to open.

The present Office Action cites to the proposition that a mere change in shape of a component to provide a known alternative shape that is structurally equivalent to yield predictable results is within the skill of one of ordinary skill in the art. Yet in the present rejection, modification of the Hicks gripping member in view of Murayama does not reproduce Applicant's gripping member as currently amended in independent Claims 1 and 32. It does not produce a "known alternative shape" or an alternative shape that is "structurally equivalent".

Indeed, the present Office Action argues that the substitution of one known element (a ring shaped gripping member) for another (a semicircular gripping member) would have yielded predictable results and there has to be no specific teaching in a reference to render what is known obvious. The problem with this reasoning as the same may be attempted to be applied to the specific structure of Applicant's currently amended independent Claims 1 and 32 is that Applicant's claimed structure is not previously know. The cited and applied references do not teach or suggest a semicircular gripping member having first and second terminal ends wherein

the first end is connected to the frangible membrane adjacent the line of weakness and the second end is remotely located from the first end and unconnected to the frangible membrane.

Advantages of Applicant's Claimed Invention.

It is respectfully submitted that the present Office Action errs in not considering the advantages accruing from Applicant's claimed structure. The functional use of a gripping member to be pulled to propagate a line of weakness is not entirely independent of the gripping member shape – Applicant's claimed structure as taught in the specification is advantageous as compared to conventional pull rings and tabs.

Applicant's specification discusses advantages of the semicircular gripping member 69 over prior pull rings and pull tabs. Such advantages nullify the asserted conclusion of obviousness.

Gripping member 69 is specifically adapted to facilitate a user in gripping and pulling gripping member 69 when removing frangible membrane 63 from fitment 32. *See*, e.g., present application, paragraph no. 55. For example, gripping member 69 is flexible and allows the user to straighten semicircular segment 70 to some degree allowing the segment to better conform to the contour of the user's finger. *See* present application, paragraph no. 60. Such a configuration is particularly useful in the case of smaller fitments (e.g., 28 mm and smaller fitments), particularly when the gripping member is located within the spout of the fitment. Indeed, Murayama more particularly relates to "wide-mouthed containers" (Column 1 lines 7-11).

With such smaller fitments, the spout opening of the fitment is small and the pull tab or pull ring must be even smaller. In the case of a pull tab, the tab must be sufficiently narrow to allow one to insert one's finger into the spout, around and under the tab. In the case of a pull ring, the outer diameter of the pull ring is smaller than the inner diameter of the spout, and the inner diameter of the pull ring is smaller still. Accordingly, it may be difficult for a user, particularly a user with larger fingers, to insert their fingers through the pull ring of a smaller fitment.

Furthermore, in the manufacturing process, a closed ring or tab as disclosed by Hicks requires a significantly more complex molding design. A flexible semicircular/free end configuration of gripping member 69 may simplify the manufacturing process by providing a shape that more readily de-molds. *See, e.g.,* present application, paragraph no. 65. For example, the semicircular configuration of gripping member 64 breaks open the loop of conventional pull rings and allows the gripping member to bend and flex out of the way as mold tooling retracts. The forces involved as the gripping member of the present invention flexes and snakes its way out of a mold cavity is likely to be substantially less than the compressive and/or expansion forces involved in demolding a fitment having a closed ring as tooling is removed from the closed ring and/or vice versa. In the case of demolding a closed ring, the higher compressive and/or expansion forces involved may in some cases be sufficient to damage the frangible membrane.

In addition, of particular importance in this application, the configuration of the semicircular gripping member disclosed in currently amended independent Claims 1 and 32 maximizes clearance of a finger inserted inside the inner diameter of the spout. Although a ring shape as taught by Hicks aids in pulling the member, a ring shape also limits the space between the inner diameter of the spout opening and the gripping member.

II. A. *Hicks as modified in view of Murayama and further in view of Wise -*

Claims 2, 24, 25, 30, and 33.

and

B. *Hicks as modified in view of Murayama and further in view of Guglielmini et al. -*

Claims 4, 28, and 35.

Applicant respectfully traverses the rejections of the above claims under 35 U.S.C. § 103(a) as the same may be attempted to be applied to Applicant's currently amended independent Claims 1 and 32 on the same basis advanced above with respect to the Hicks and Murayama

references.

Additionally, the Wise and Guglielmini patents, which both fail to teach the semicircular gripping member of currently amended independent Claims 1 and 32, do not make up for the foregoing deficiencies of the Hicks and Murayama patents. The Wise patent teaches away from Applicant's semicircular gripping member in that pull out tab 68 is a flat tab. The Guglielmini patent also teaches away from such a configuration in that pulling ring 12 is a closed ring, as evidenced by the cross-hatching in FIGS. 2 and 4.

III. A. *Dwinell as modified in view of Groemeyer et al.*

Claims 15 to 19, and 22.

and

B. *Dwinell as modified in view of Groemeyer et al and further in view of Kim*

Claim 20.

The present Office Action has rejected claims 15 to 19 and 22 under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 4,022, 357 to Dwinell ("Dwinell") in view of U.S. Patent No. 3,708,083 to Gronemeyer et al. ("Gronemeyer") and Claim 20 as obvious from this combination further in view of U.S. Patent No. 6,681, 947 to Kim et al. ("Kim").

The present Office Action states that:

"Dwinell discloses a fitment comprising a spout 2, a membrane 12, a line of weakness 13, and a gripping member including a horizontally extending member 14 having a first end 15 adjacent the line of weakness. Dwinell is silent regarding a frangible connection interconnecting a portion of said lower edge of said a horizontally extending member and an adjacent portion of said upper end of said spout.

Gronemeyer teaches it is known to provide a horizontally extending portion of a gripping member having a frangible connection 64 interconnecting a portion of said lower edge of said horizontally extending member and an adjacent portion of said upper end of said the spout.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a frangible connection 64 interconnecting a portion of said lower edge of said horizontally extending member and an adjacent portion of said upper end of the spout of Dwinell and extending the length of the gripping member in so doing with a reasonable expectation of predictable results. Doing so

provides an end user with additional warning of possible tampering of the associated container contents. {Office Action pages 6-7}

The gripping member engages the 18 upon closure of thereover, thus having gripping structure." {Office Action pages 6-7}

Applicant respectfully traverses the foregoing rejections of claims under 35 U.S.C. § 103(a) as the same may be attempted to be applied to Applicant's independent Claim 15 and Claims 16 to 23 directly or indirectly depend thereon.

No Recreation of Applicant's Independent Claim 15 As Currently Amended.

Applicant respectfully submits that the Dwinell in view of Gronemeyer combination does not reconstruct Applicant's inventions of currently amended independent Claim 15. It is noted that independent Claims 15 in part defines a fitment having a gripping member adapted to facilitate removal of a frangible membrane from a spout, **"the gripping member including a circular segment having substantially the same diameter as that of said spout and having a lower edge, and a first end, said first end being connected to said frangible membrane adjacent said line of weakness; and a frangible connection interconnecting a portion of said lower edge of said gripping member and an adjacent portion of said upper end of said spout."**

It is submitted that the attempted combination of Hicks and Murayama do not reconstruct at least the bold print portions of currently amended independent Claim 15 set forth above.

The Dwinell patent is directed to a retractable pouring spout closure for dispensing liquid products from containers. The closure consists of a plastic nozzle with and integrally molded captive cap for friction fit engagement within a container wall opening. A tearing diaphragm seals off the upper end of the nozzle and has a cylindrical wall depending from its lower surface within the confines of the nozzle throat. A retractable pouring spout has its upper end tightly surrounding the depending cylindrical wall in stored position so as to require breaking of the diaphragm seal prior to unplugging the spout.

The Gronemeyer Patent is directed to a two-piece closure cap for a container having an unthreaded neck with an outwardly projecting rim portion adjacent its open end. The cap includes inner and outer fitments each having an end panel with a downwardly depending peripheral skirt. The outer fitment is telescoped onto the inner fitment, with the inner surface of the skirt of the outer fitment engaging and camming the inner fitment skirt inwardly beneath the outwardly projecting rim of the neck to releasably retain the cap on the container. Vent openings formed and the inner fitment panel are closed by seal means on the outer fitment when the closure cap is installed on the container.

The subject combination of Dwinell and Gronemeyer essentially modifies the lower edge of the free end of the Dwinell "ring pull 14" to now incorporate and be connected to the further structure of Gronemeyer's "frangible tab 64". Such a modified structure does not reconstruct the fitment of Applicant's independent Claim 15 as currently amended.

Both the pull ring 14 of Dwinell and the sealing fitment 14 connected to the frangible tab 64 of Gronemeyer are not **"the gripping member including a circular segment having substantially the same diameter as that of said spout"** specified in amended independent Claim 15. The diameters of the Dwinell "pull ring 14" and the "annular, rigid disk element 66" of Gronemeyer are not substantially the same as the spouts.

References Are Not Properly Combinable

Additionally, modifying the lower edge of the free end of the Dwinell "ring pull 14" to now incorporate and be connected to the further structure of Gronemeyer's "frangible tab 64" would render the spout closure of Dwinell inoperative. Such structure cannot be combined due to the captive cap 18 of Dwinell.

Dwinell teaches at Column 2 lines 60 to 68 that:

"A captive cap 18, integrally joined to the nozzle flange 3 by a connecting strap 19, is provided with a top panel 20 surrounded by a side wall 21. **The cap interior is formed with an annular groove 22 for snap fit engagement with the nozzle bead 7 and a**

compartment 23 within which the ring pull 14 is housed with the cap in closed position. A radially extending detent 24 facilitates separation of the cap from the underlying nozzle body. {bold print emphasis added}

The captive cap 18 with integral connecting strap 19, radially extending detent 14, an annular groove 22 is designed for snap fit engagement with nozzle bead 7 to protect the internal structure of the pull ring 15. **The compartment 23 of the captive cap 18 must house the pull ring 14 when the cap is closed. The compartment 23 cannot accomplish such a necessary protective function with the modified structure advanced by the present combination.**

First if the lower edge of the free end of the Dwinell "ring pull14" is modified to now incorporate and be connected to the further structure of Gronemeyer's "frangible tab 64, **the additional structure does not appear to be capable of being housed within compartment 23.** Second **the additional structure would be isolated within compartment 23 and not interconnecting the lower edge of the gripping member (pull ring) to an adjacent portion of the upper end of a spout because the captive cap's interior wall of compartment 23 blocks the same.**

Such impediments further destroys the asserted motivation to alter the Dwinell pull ring 14 with the dissected "frangible tab 64" of Gronemeyer.

Allowable Subject Matter

The Examiner has indicated that claims 21 and 23 are objected to as being a dependent upon a rejected abase claim, but would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claim.

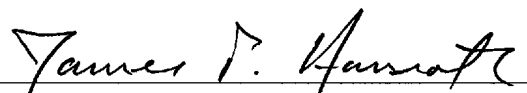
Conclusion

For at least the foregoing reasons, Applicant respectfully submits that the Hicks and Murayama patents, combined with each other or with the Wise et al. and Guglielmini et. al. patents, do not render obvious independent Claims 1 or 32 as currently amended. Similarly the

Dwinell and Gronemeyer references combined with each other or with the Kim et. al. patent, do not render obvious independent Claim 15 as currently amended. Hence all remaining pending claims are believed allowable due to their direct or indirect dependency on such independent Claims 1, 15, or 32..

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicant respectfully requests that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. It is submitted that the application is now in condition for allowance and an early and favorable action to that end is requested. If any questions or issues remain, the resolution of which the Examiner feels would be advanced by a telephonic conference with Applicant's attorney, she is invited to contact the undersigned at the telephone number noted below.

Respectfully submitted,


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